

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105**

10 December 2003

In Reply  
Refer to: WTR-5

Peter Douglas  
Executive Director  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2219

Dear Mr. Douglas:

Enclosed is a revised draft general National Pollutant Discharge Elimination System (NPDES) permit (permit No. CAG280000) which, when issued, would authorize the discharge of pollutants from offshore oil and gas exploration, development and production facilities operating in specified Federal waters off Southern California (Enclosure A). Pursuant to Section 307(c)(1) of the Coastal Zone Management Act (CZMA), EPA hereby certifies that this revised draft general permit is consistent with the approved California Coastal Management Program (CMP). We have also enclosed the revised fact sheet for the permit (Enclosure B). We are requesting the concurrence of the California Coastal Commission (CCC) on EPA's certification.

On October 9, 2003, we notified the CCC that prior to certifying the revised permit, we intended to wait for the National Oceanic and Atmospheric Administration (NOAA) to complete its current process of revising the CZMA regulations. However, we understand the CCC is quite anxious to move forward with final permit issuance (as are we) in order that the updated effluent limits in the new permit (particularly the new more stringent oil and grease limits for produced water) can take effect as soon as possible. We also understand that the CCC will be considering the permit status at its December 12, 2003 meeting in San Francisco. Given the CCC's concerns, we have decided to certify the permit without waiting for the final revised regulations from NOAA.

On December 20, 2000, EPA submitted a consistency certification to the CCC for a previous version of the general permit. The consistency certification was considered by the CCC during a public meeting in Los Angeles on January 9, 2001. At the public meeting, EPA agreed to make three changes in the consistency certification in response to concerns raised by the CCC. With the changes, the CCC concurred that the permit would be consistent with the CMP.

The changes which were made at the January 9, 2001 public meeting are discussed in more detail in Section VIII.C of the enclosed fact sheet. However, as discussed below, EPA is now proposing to revise the change which was made on January 9, 2001 regarding the

application of California Ocean Plan (COP) objectives to produced water discharges. Since this change constitutes a modification of the consistency certification which the CCC concurred upon, EPA is now recertifying the revised permit to the CCC for another consistency review.

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At the January 9, 2001 meeting, EPA committed to revise the effluent limits for produced water discharges in the general permit to apply the more stringent of EPA water quality criteria or COP objectives at the edge of the 100 meter mixing zone. After reconsidering this matter, EPA has revised the general permit to apply COP objectives at the seaward boundary of the territorial seas of the State of California. The criteria which would apply to a given discharge would be the more stringent of EPA criteria applied at the edge of the 100 meter mixing zone, or COP objectives applied at the boundary of the territorial seas. Permittees would be required to calculate the dilution occurring at both locations to determine which criteria are more stringent. The COP itself specifies that discharges outside the territorial seas should be regulated in this manner, and thus the revised permit is consistent with the COP in this regard. We also believe that the revised permit is consistent with the California CMP. It is also consistent with the approach normally used by EPA and NPDES states to address similar situations where jurisdictional boundaries are involved. We firmly believe this approach is protective of water quality and the resources that depend on it. Enclosure D discusses the consistency in more detail.

EPA is not revising the other changes which were made in the consistency certification at the January 9, 2001 public meeting. These other changes addressed study requirements and independent third party monitoring. However, considering the delay in permit issuance which has occurred, EPA is proposing to accelerate the reasonable potential sampling schedule for produced water discharges. The revised permit would require that 12 samples be taken during the first year of the permit rather than ten samples during the first 2 ½ years of the permit. In addition, EPA is proposing a number of minor technical edits and updates to the permit which are discussed in the revised fact sheet.

We have enclosed a number of supporting documents for the new consistency certification, including a list of the documents. Several of these documents are the same as those which were enclosed with the December 20, 2000 certification since they are still current (Enclosures C, F, G1, G2, H1, H2, and H3). Enclosure E is the latest Outer Continental Shelf Monitoring Workplan between EPA and the Minerals Management Service.

It should also be pointed out that the certification of December 20, 2000 was submitted pursuant to Section 307(c)(3)(A) of the CZMA. As noted above, this recertification is being submitted pursuant to Section 307(c)(1) of the CZMA. Existing CZMA regulations at 15 CFR 930 provide that a general permit may be certified as a Federal agency activity (Subpart C) or a permit (Subpart D). However, the regulations at 15 CFR 930.31(d) suggest that a general permit may be best considered a Federal agency activity subject to Section 307(c)(1) (65 FR 77133, December 8, 2000). Furthermore, NOAA's proposed revisions of June 11, 2003 (68 FR 34851) would require that general permits be certified as Federal agency activities. As such, we believe it is reasonable to proceed with permit recertification under Section 307(c)(1) without waiting for the final NOAA regulations (especially given the CCC's desire for expeditious permit issuance).

In accordance with the existing (and proposed) CZMA regulations (15 CFR Subpart C), if the CCC does not concur with the revised permit, the permit would not become effective for a given facility until an individual consistency certification had been submitted by the facility and concurred upon by the CCC, or until the Secretary of Commerce had overridden a CCC objection. The effective date of the enclosed general permit has been revised to be consistent with these regulations and is discussed in more detail in Section VIII.C.4 of the revised fact sheet. In accordance with 15 CFR 930.31(d) we are also requesting information on any conditions which would permit the CCC to concur with the consistency determination.

As noted above, we have submitted a draft permit for your consideration. After the CCC takes action on the draft permit, it will be necessary to public notice and request public comment on the permit. However, we only plan on requesting comment on the modifications resulting from the CCC public meeting of January 9, 2001, and the other proposed changes noted above. Subsequent to the proposal, EPA will then finalize the permit. If significant changes are made in finalizing the permit, EPA may bring the permit before the CCC again for another review.

The revised draft general permit incorporates significant revisions in effluent limits for the discharges which are more protective of environmental resources than the limits in the existing general permit. In particular (as noted above), the revised draft permit contains limits for oil and grease in produced water that are significantly more stringent than those in the existing permit. We urge the CCC to concur upon the draft permit so that the additional environmental protections included in the permit can become effective as quickly as possible. Also, we would like to place the permit on the CCC's agenda as soon as possible. We are available to meet with CCC staff in the meantime to discuss the revised general permit.

Should you have any questions regarding this matter, please call me at (415) 972-3572 or refer your staff to Eugene Bromley of the Clean Water Act Standards and Permits Office at (415) 972-3510.

Sincerely,

/s/

Alexis Strauss  
Director, Water Division

Enclosures

cc: Alison Dettmer, CCC

## **LIST OF ENCLOSURES**

- Enclosure A - Revised Draft General NPDES Permit
- Enclosure B - Revised Fact Sheet
- Enclosure C - Response to Public Comments on the Draft Permit of July, 2000
- Enclosure D - Demonstration of Consistency of the Revised Draft General Permit with the  
California CMP
- Enclosure E - FY04 Monitoring Workplan between EPA and MMS
- Enclosure F - Ocean Discharge Criteria Evaluation
- Enclosure G.1 - ESA Biological Assessment for Species under the Jurisdiction of the National  
Marine Fisheries Service
- Enclosure G.2 - ESA Biological Assessment for Species under the Jurisdiction of the U.S. Fish  
and Wildlife Service
- Enclosure H - Essential Fish Habitat Assessment
- Enclosure H.1 - Letter to National Marine Fisheries Service From EPA Requesting EFH  
Consultation
- Enclosure H.2 - Letter to EPA from National Marine Fisheries Service Enclosing Conservation  
Recommendations
- Enclosure H.3 - Letter from EPA to National Marine Fisheries Service Providing Permit  
Conditions in Response to Conservation Recommendations